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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/519,611	12/23/2004	Jehan Vanpopcrynghe	034299-612	9208
7590 Thelen Reid & Priest PO Box 640640 San Jose, CA 95164-0640		08/13/2007	EXAMINER LEE, BENNY T	
			ART UNIT 2817	PAPER NUMBER
			MAIL DATE 08/13/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/519,611	Applicant(s) VANPOPERYNGHE ET AL.	
	Examiner Benny Lee	Art Unit 2817	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) 1 and 4 is/are rejected.
- 7) ☒ Claim(s) 2,3,5 and 6 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 December 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____ |

The disclosure is objected to because of the following informalities: In replacement paragraph [0019], fourth line therein, note that "from outside" should be deleted as being unnecessary for an appropriate characterization. Page 6, paragraph [0027], note that --(FIG. 3A) -- should be inserted after "contacts 2" for consistency with the drawing figure. Page 7, paragraph [0032], note that --as best shown in FIG. 3A-- should be inserted after "rings C and D" for clarity of description. Appropriate correction is required.

The drawings are objected to because of the following: With respect to one or both of drawing figures 3A & 3B, note that parameters (a, 2a, 3a, 4a) as described in paragraph [0033] need to be labeled. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

The following claims have been found objectionable for reasons set forth below:

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In claim 1, line 4, note that a --,-- should be inserted after "F" for grammatical correctness.

In claim 2, lines 7, 9, note that --at least one-- should be inserted prior to each occurrence of "lead screw" for consistency in claim terminology; line 9, note that --set of-- should be inserted between "the" & "rings" for consistency in claim terminology.

In claim 5, line 2, note that "made" should be rewritten as --comprised-- for an appropriate characterization.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 4 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Woods (of record).

Woods discloses an electron beam tube (i.e. a velocity modulated tube 11, such as a klystron) comprising: at least two tunable cavities having movable tuning flanges (e.g. 46, 49), which correspond to the "rings" recited in applicants' claims. Note that the flanges or "rings" are associated with respective ones of the cavities in the electron beam tube and are mechanically movable (e.g. via adjusting screw 33), such that the respective tuning flanges or "rings" establish a periodic relationship with respect to fixed flange or ring (44) and thus provide a varying frequency for the respective tunable cavities.

Applicant's arguments filed 5 June 2007 have been fully considered but they are not persuasive.

Regarding the drawing objection to parameters (a, 2a, 3a, 4a), applicants' arguments have been considered, but found to be unpersuasive. It should be noted that these parameters have been defined in the specification as "pitches" (i.e. a physical spacing) in the structure and as such is a feature (i.e. a dimension), which can be and should be depicted in the drawing figure.

Regarding the prior art rejection, applicants' have asserted that the adjustable cavities in Woods are located *outside* the tube, and as such does not meet the claimed limitation that the rings are located *inside the tube*.

Applicants' argument has been considered, but has been found unpersuasive. It should be noted that in Woods that the *tube* (11) is defined in part by the vacuum envelope (i.e. those portions of tube (11) surrounding the emitter and collector) which are vacuum sealed to the conductive structure of tube (11) which includes fixed flange (44) and movable flanges (46, 49). Since those flanges are sealed with respect to the vacuum envelope, then it would stand to reason that flanges (46, 49), corresponding to the claimed "rings", constitute at least a part of the tube (11) and as such would have been considered to have be at least portion thereof *inside the tube*, as would have been recognized by those of ordinary skill in the art. Therefore, contrary to applicants' assertion, Woods does indeed meet every limitation in the claims, and thus anticipates these claims.

Claims 2, 3, 5, 6 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Benny Lee at telephone number 571 272 1764.

B. Lee


BENNY T. LEE
PRIMARY EXAMINER
ART UNIT 2817